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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,839	01/14/2004	George J. Jost	11758/232	5094

7590 04/20/2005

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EXAMINER

BASTIANELLI, JOHN

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/757,839	Applicant(s) JOST ET AL.	
	Examiner John Bastianelli	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The examiner maintains the restriction. Claims 18-20 are therefore withdrawn and claims 1-17 are examined below.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the electronic detent and diaphragm coupled to a pilot must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to because they do not make sense as the operation of the valve cannot be ascertained.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because the term “preferably” is inappropriate for the abstract. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. An electronic detent coupled to the override control, the electronic detent configured to lock and unlock a pilot or diaphragm is not described well enough to enable someone to make or use the invention.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-17, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Aharon US 5,549,273.

Aharon discloses a proximity sensor 72, a pilot valve assembly 14 and that dispenses fluids when an activation signal is received from the sensor; an override control coupled to the pilot valve assembly, the override control being configured to allow fluid to flow continuously beyond a predetermined period of time (col. 3, lines 19-52); and an electronic detent is seen as coupled to the override control, the electronic detent configured to lock and unlock a pilot within the pilot valve assembly. The pilot valve assembly has a motor 20 that is seen as DC and cam 23, a gear train that couples a shaft of the motor to the cam. A diaphragm 11 is coupled to the pilot. A mixing valve 3, 4 is coupled to the pilot valve assembly. The cam follower 25 is seen as P-shaped. The pilot valve assembly is seen as a spur gear having a stem that limits the travel of the pilot.

10. Alternatively, claims 1-6, 8-13 and 16, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gruber et al. US 4,995,585.

Gruber discloses a proximity sensor 66, a pilot valve assembly (Fig. 2) and that dispenses fluids when an activation signal is received from the sensor; an override control coupled to the pilot valve assembly, the override control being configured to allow fluid to flow continuously beyond a predetermined period of time; and an electronic detent coupled to the override control, the electronic detent configured to lock and unlock a pilot within the pilot valve assembly. The pilot

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valve assembly has a DC motor 39 and cam 52, a gear train that couples a shaft of the motor to the cam. A diaphragm 7 is coupled to the pilot.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 7 and 15, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber et al. US 4,995,585 in view of Pepper US 4,788,998.

Gruber lacks a mixing valve coupled to the pilot valve assembly. Pepper discloses a mixing valve 14 and 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a mixing valve connected to the valve of Gruber in order to adjust the temperature of the fluid as disclosed by Pepper.

13. Claim 14, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber et al. US 4,995,585 in view of Aharon US 5,549,273.

Gruber lacks a P-shaped cam follower. Aharon discloses a P-shaped cam follower. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cam follower of Gruber P-shaped as disclosed by Aharon as a matter of design choice, since it has been held that a change in the shape of the element involves only routine skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1966).

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Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rinkewich, Humpert, Vincent and Gregory disclose pilot valves in a faucet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-F (9:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Bastianelli
Primary Examiner
Art Unit 3751



JB
April 7, 2005